

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI

DAVID MAYES 185830 )  
(full name) (Register No.) )

Plaintiff(s).

Case No. \_\_\_\_\_

v.

18-3235-CV-S-RK-P

ZEL M. FISCHER,  
(Full name)

CHIEF JUSTICE  
MO. SUPREME COURT

Defendant(s).

Defendants are sued in their (check one):

\_\_\_\_ Individual Capacity

\_\_\_\_ Official Capacity

☒ Both

COMPLAINT UNDER THE CIVIL RIGHTS ACT OF 42 U.S.C. § 1983

I. Place of present confinement of plaintiff(s): SOUTH CENTRAL CORRECTIONAL  
CENTER, 255 W. HWY 32, LICKING, MO. 65542

II. Parties to this civil action:

Please give your commitment name and any another name(s) you have used while incarcerated.

A. Plaintiff DAVID MAYES Register No. 185830  
Address 255 W. HWY 32  
LICKING MO. 65542

B. Defendant ZEL M. FISCHER

Is employed as UPON INFORMATION AND BELIEF  
THE CHIEF JUSTICE OF THE MISSOURI  
SUPREME COURT

For additional plaintiffs or defendants, provide above information in same format on a separate page.

- III. Do your claims involve medical treatment? Yes \_\_\_\_\_ No ☒
- IV. Do you request a jury trial? Yes \_\_\_\_\_ No ☒
- V. Do you request money damages? Yes ☒ No ☒  
~~PER DEFENDANT~~ PAY COSTS  
State the amount claimed? \$ 2 / 7 (actual/punitive)
- VI. Are the wrongs alleged in your complaint continuing to occur? Yes ☒ No \_\_\_\_\_
- VII. Grievance procedures: N/A
- A. Does your institution have an administrative or grievance procedure?  
Yes \_\_\_\_\_ No \_\_\_\_\_
- B. Have the claims in this case been presented through an administrative or grievance procedure within the institution?  
Yes \_\_\_\_\_ No \_\_\_\_\_
- C. If a grievance was filed, state the date your claims were presented, how they were presented, and the result of that procedure. (Attach a copy of the final result.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- D. If you have not filed a grievance, state the reasons.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- VIII. Previous civil actions:
- A. Have you begun other cases in state or federal courts dealing with the same facts involved in this case?  
Yes \_\_\_\_\_ No ☒
- B. Have you begun other cases in state or federal courts relating to the conditions of or treatment while incarcerated?  
Yes ☒ No \_\_\_\_\_
- C. If your answer is "Yes," to either of the above questions, provide the following information for each case.  
DAVID LAWRENCE NAMES - ASHOK CHADA et al  
(1) Style: DAVID LAWRENCE NAMES - REJECTO DARC et al  
(Plaintiff) Aug. 2017 (Defendant)  
(2) Date filed: JUNE 2018

- (3) Court where filed: BOTH IN THIS COURT  
6:17-cv-03276-MON
- (4) Case Number and citation: 18-03184-CV-S-RK-P
- (5) Basic claim made: BOTH CONCERN MEDICAL ISSUES
- (6) Date of disposition: N/A PENDING (Both)
- (7) Disposition: N/A  
(Pending) (on appeal) (resolved)
- (8) If resolved, state whether for: N/A  
(Plaintiff or Defendant)

For additional cases, provide the above information in the same format on a separate page.

IX. Statement of claim:

- A. State here as briefly as possible the facts of your claim. Describe how each named defendant is involved. Include the names of other persons involved, dates and places. Describe specifically the injuries incurred. Do not give legal arguments or cite cases or statutes. You may do that in Item "B" below. If you allege related claims, number and set forth each claim in a separate paragraph. Use as much space as you need to state the facts. Attach extra sheets, if necessary. Unrelated separate claims should be raised in a separate civil action.

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- B. State briefly your legal theory or cite appropriate authority:

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## 1X A STATEMENT OF CLAIM

- 1) IN LATE 1991, THE PLAINTIFF WAS CHARGED BY INFORMANT WITH THREE (3) COUNTS OF THE CLASS "B" OFFENSE OF BURGLARY IN THE FIRST DEGREE, AS WELL AS TWO (2) COUNTS OF THE CLASS "B" OFFENSE OF SEDUCY. FOR THE BURGLARIES THE PLAINTIFF RECEIVED 20 YEARS FOR EACH COUNT AND 10 YEARS FOR EACH COUNT OF SEDUCY CASE # 13R019131662-C1, Boone County, Mo.
- 2) IN 1994, IN CASE CITATION, 874 S.W.2d 539 THE PLAINTIFFS CONSOLIDATED APPEAL WAS DENIED.
- 3) IN 1998, THE PLAINTIFFS 2004 WAS DENIED IN CASE # 97-0543-CV-W-1-P
- 4). ON JUNE 11, 2018 THE PLAINTIFF FILED A PETITION FOR WRIT OF HABEAS CORPUS IN THE MISSOURI SUPREME COURT IN CASE # SC97208 WHICH ADDRESSED THE FACT THAT NO COMPLAINT HAD EVER BEEN FILED IN THE CIRCUIT COURT OF BOONE COUNTY, MO. IN CASE # CR0191-031162F.
- 5). IN LIGHT OF THAT FACT, THE PLAINTIFF ASKED THE COURT SEVERAL QUESTIONS THAT HE CONSIDERED SUBSTANTIVE.
  - 1). CAN A COURT ACQUIRE JURISDICTION IN THE ABSENCE OF A COMPLAINT BEING FILED, 2) WHETHER A CITIZEN CAN BE AFFORDED A PRELIMINARY HEARING WITHOUT A COMPLAINT BEING FILED, AND, 3) IF NOT, THEN IS THE PROSECUTION BY INFORMANT "UNLAWFUL".

- 6.) THE PLAINTIFF WAS GRANTED FERIA PAUPERIS PURSUANT TO THE PRISONER LITIGATION REFORM ACT.
- 7.) THE PLAINTIFF ALSO FILED A MOTION TO WAIVE THE PARTIAL FILING FEE BECAUSE THE \$<sup>50</sup>/<sub>8</sub> HE GETS EACH MONTH IS AUTOMATICALLY DEDUCTED EACH MONTH TO SATISFY PRIOR FILING FEE JUDGMENTS. WHICH LEAVES HIM WITH ZERO EACH MONTH.
- 8.) THE DEFENDANT, ZEL M. FISCHER, CHIEF JUSTICE OF THE MISSOURI SUPREME COURT, ENTERED AN ORDER ON JUNE, 11, 2018 THAT DENIED PLAINTIFFS REQUEST TO WAIVE THE PARTIAL FILING FEE, AND DIRECTED THE PLAINTIFF TO PAY \$1.<sup>82</sup> WITHIN 30 DAYS OR THE CAUSE WOULD BE DISMISSED WITHOUT FURTHER ORDER OF THE COURT.
- 9.) ON JULY 12, 2018, THE PLAINTIFFS WRIT OF HABEAS CORPUS WAS DISMISSED FOR FAILURE TO PAY THE PARTIAL FILING FEE. WHICH PLAINTIFF ALLEGED DENIES HIM ACCESS TO THE COURT AND SUPPRESS THE WRIT.

## B. LEGAL THEORY

the plaintiff asserts that the defendant, while acting under the color of state law violated the plaintiff's 1<sup>st</sup> amendment right to petition the court for a redress of his grievances as well as his right to equal protection and due process of law in violation of the 14<sup>th</sup> amendment as guaranteed by the United States Constitution when the plaintiff's petition for writ of Habeas Corpus was dismissed solely upon his ability to pay a partial filing fee of \$1<sup>80</sup>.

### Plaintiff's non frivolous issue

In his petition for the writ, the plaintiff addressed the absence of a complaint to initiate a felony proceeding against him, and he believes that said absence is jurisdictional in nature which may make the prosecution by information void.

Furthermore, though he may be wrong, the plaintiff presented his petition for the writ to the court which was supported by a certified copy of his sentence and judgment and the docket sheet of the circuit court. As previously stated, the plaintiff received 25 years, and 10 year sentences for class "B" felonies which are well beyond the 15 years allowed by law. Also the class "B" felony of robbery for which he was charged was in fact repealed by an act

of congress prior to the time the crimes were even committed. Anyway, the plaintiff believes that the court had a judicial duty to inquire into the record or at least could have exercised its discretion to examine the record as to the facts.

### Actual Injury

Had the plaintiff not been impeded from seeking a redress of his grievances there would have been a substantial probability that the Missouri supreme court would have determined that the plaintiff is unlawfully detained in violation of federal and state law by ruling that the court, in fact, lacked jurisdiction, and ordered state actors to file a complaint and to provide a preliminary hearing per-provision of law.

X. Relief: State briefly exactly what you want the court to do for you. Make no legal arguments.  
1) DECLARE THAT THE APPLICATION OF A PARTIAL FILING FEE VIOLATES PLAINTIFFS CONSTITUTION RIGHTS. 2) INJUNCTION TO REMOVE IMPROPER OR INJUNCTION FOR STATE ACTORS TO FILE A COMPLAINT AND OWE PLAINTIFF A PREAM. HEARING.

XI. Counsel:

A. If someone other than a lawyer is assisting you in preparing this case, state the person's name. JA

B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action? Yes      No X

If your answer is "Yes," state the names(s) and address(es) of each lawyer contacted.

C. Have you previously had a lawyer representing you in a civil action in this court?

Yes      No X

If your answer is "Yes," state the name and address of the lawyer.

I declare under penalty of perjury that the foregoing is true and correct.

Executed (signed) this 21<sup>st</sup> day of JULY 2018

DM

Signature(s) of Plaintiff(s)

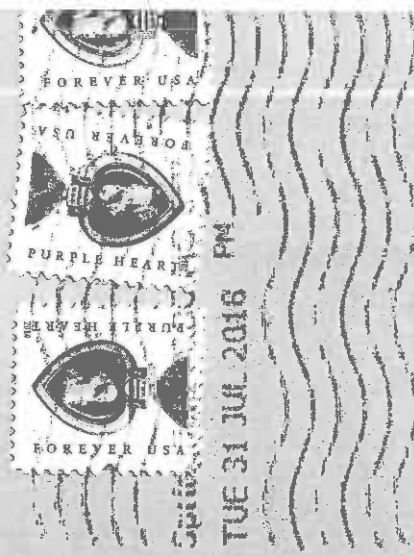
DAVID LAWRENCE MAYES



DAVID MAYES 185830 LB-121  
SOUTH CENTRAL CONNECTIONAL CENTER  
286 W. HWY 32  
WICKLIFFE, Mo. 64542

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CLERK U.S. DIST. COURT  
WEST. DIST. OF MO.  
KANSAS CITY, MO.



US DISTRICT COURT  
WESTERN DISTRICT OF MO.  
400 E 9TH ST.  
Kansas City, Mo. 64106